

THE AUXILIARY FORCE ACT, 1920.

(XLIX OF 1920.)

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ACT NO. XLIX OF 1920.

[PASSED BY THE INDIAN LEGISLATIVE COUNCIL.]

*(Received the assent of the Governor General on the 22nd
September, 1920.)*An Act to constitute an auxiliary force for
service in India.**W**HEREAS it is expedient to constitute an auxil-
iary force for service in India; It is hereby
enacted as follows :—1. (1) This Act may be called the Auxiliary Force Act, 1920. Short title,
extent and
commence-
ment.(2) It extends to the whole of British India, in-
cluding British Baluchistan and the Sonthal Parga-
nas, and applies also to European British subjects
within the territories of any Prince or Chief in India.(3) It shall come into force on the first day of
October, 1920.2. In this Act, unless there is anything repugnant Definitions.
in the subject or context,—“ Advisory Committee ” means an Advisory
Committee constituted under section 28 for the pre-
scribed military area, or part of a prescribed military
area, within which a person subject to this Act for
the time being resides or is serving, as the case may
be ;“ competent military authority ” means the
General or other Officer Commanding the prescribed
military area within which a person subject to this
Act for the time being resides or is serving, as the
case may be ;“ enrolled person ” means a person enrolled in the
prescribed manner under this Act ;

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“ enrolling

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“enrolling officer” means an officer authorised to enroll persons under this Act ;

“prescribed” means prescribed by rules made under this Act, and “prescribe” has a corresponding meaning ;

“regulation” means a regulation made under section 31 ; and

“training year” means a period of twelve months beginning on the first day of April and ending on the thirty-first day of March.

Constitution
of an auxilli-
ary force.

3. There shall be raised and maintained in the manner hereinafter provided an auxiliary force for service in India to be designated the Auxiliary Force, India.

Classes who
may be
enrolled.

4. Every person who—

(a) is a European British subject as defined in the Code of Criminal Procedure, 1898, v of 1898, or

(b) was, on the thirtieth day of September, 1920, enrolled or deemed to be enrolled under the Indian Defence Force Act, 1917 (not III of 1917, being a person enrolled under the provisions of section 12 of that Act), or

(c) is a British subject of European descent in the male line, or

(d) not being a British subject, satisfies the conditions prescribed for enrolment of persons of that class,

shall, subject to the provisions of this Act, be eligible for enrolment thereunder.

Enrolment.

5. (1) Any person made eligible for enrolment under this Act who has attained the age of sixteen years and is not a member of His Majesty's regular naval, military or air forces or of His Majesty's Royal Indian Marine may apply to be enrolled in the Auxiliary Force, India, and if he satisfies the prescribed conditions, may be enrolled therein in the prescribed manner, and shall thereupon become subject to the provisions of this Act.

(2) An

(2) An applicant for enrolment may apply to be enrolled for service in any particular branch, or in any particular corps or unit located in the prescribed military area within which he for the time being resides.

6. Every enrolled person shall be liable to undergo military training as provided by or under this Act until discharged from the Auxiliary Force, India, as hereinafter provided. Liability to undergo military training.

7. Every enrolled person liable to undergo military training under section 6 shall, on and from the first day of April next following the date on which he attains the age of eighteen years or, if he has already attained the age of eighteen years on and from any later date on which he is enrolled, be liable to perform military service under this Act. Liability to perform military service.

8. (1) Every enrolled person shall without unnecessary delay, be appointed by, or under the orders of, the competent military authority to a corps or unit of the Auxiliary Force, India, and on receipt of an order so appointing him shall report himself for the purpose of joining such corps or unit at such time and place as may be specified in the order. Appointment to corps or unit.

(2) Any person who has been enrolled for service in any particular branch, corps or unit shall be appointed to a corps or unit of that branch or to that corps or unit, as the case may be.

9. Every enrolled person liable to perform military service under this Act who on becoming so liable has not attained the age of thirty-one years shall, within the training year in which he becomes so liable, undergo the preliminary training specified in Schedule I: Preliminary training.

Provided that, if such preliminary training cannot be completed within that training year, it may be completed at the discretion of the competent military authority in the training year next following:

Provided further that any person who has completed the preliminary training required by regulations made under the Indian Defence Force Act, 1917,

1917, or who has served for a period of six months in His Majesty's naval, military or air forces or in His Majesty's Royal Indian Marine, or who is certified by the competent military authority to have undergone adequate military training under the Indian Defence Force Act, 1917, or under this Act or otherwise, shall be deemed to have completed the preliminary training required by this section. III of 1917.

Periodical training of persons entitled to rank as officers.

10. Every enrolled person (other than a commissioned officer of the Auxiliary Force, India) who is entitled to rank as an officer of His Majesty's Forces, shall undergo such periodical training as may be laid down in regulations.

Classification and periodical training.

11. Every enrolled person liable to perform military service under this Act (other than a person to whom the provisions of section 10 apply) shall be included as hereinafter provided in one or other of the following classes, namely:—

- (a) the Active Class;
- (b) the First (A) Class of the Reserve; or
- (c) the Second (B) Class of the Reserve;

and shall undergo the periodical training specified in Schedule I for the Class in which he is for the time being included.

Classification.

12. (1) Every commissioned officer of the Auxiliary Force, India, shall be included in the Active Class until he relinquishes his commission.

(2) Enrolled persons liable to perform military service under this Act, not being commissioned officers of the Auxiliary Force, India, or entitled to rank as officers of His Majesty's Forces, shall be classified as follows, namely:—

- (a) every such person who is required by section 9 to undergo preliminary training and has completed or is deemed to have completed the same shall be included in the Active Class until the end of the training year in which he attains the age of thirty-one years;
- (b) every such person who has completed the period of service in the Active Class as required

required by clause (a) or is enrolled after attaining the age of thirty-one years and before attaining the age of forty years shall be included in the First (A) Class of the Reserve until the end of the training year in which he attains the age of forty years;

(c) every such person who has completed the period of service in the First (A) Class of the Reserve as required by clause (b) or is enrolled after attaining the age of forty years shall be included in the Second (B) Class of the Reserve until discharged from the Auxiliary Force, India, as hereinafter provided.

(3) Any enrolled person who ceases to be entitled to rank as an officer of His Majesty's Forces or to be a commissioned officer of the Auxiliary Force, India, shall thereupon be included in the Class in which he would have been included under this section if the provisions of section 10 or sub-section (1), as the case may be, had not applied to him, and shall undergo periodical training accordingly.

(4) Any person who is under this section included in either Class of the Reserve may apply to the competent military authority to be included for any training year in any other Class for which more periodical training is specified in Schedule I, and shall thereupon be deemed to be included in that Class.

(5) Notwithstanding anything hereinbefore contained, if any person is under this section included in any Class after the commencement of a training year, the competent military authority shall reduce to such extent as he may deem fit, or may remit, the amount of periodical training to be undergone by such person in that year.

13. (1) The competent military authority may, ^{Variations of training.} by order in writing,—

(a) on the recommendation of the Advisory Committee, direct the inclusion of any enrolled

enrolled person in any Class for which less periodical training is specified than that specified for the Class in which he is included under the provisions of section 12, or

(b) on his own motion or on the recommendation of the Advisory Committee, reduce the specified amount of training either in individual cases or in the case of any unit or part thereof for any stated period.

(2) The competent military authority shall grant to each person whose training is reduced under clause (b) of sub-section (1) a certificate setting forth the amount of training to be undergone during the said period.

Medical examination.

14. Every enrolled person shall, if and when required by the competent military authority, present himself for such medical examination as may be necessary to determine the extent, if any, to which he is fit to undergo military training or to perform military service, before a medical officer appointed or approved in that behalf by the competent military authority, and for the purposes of such medical examination shall comply with the directions of such medical officer.

Transfers.

15. (1) Every person appointed to a corps or unit under section 8 shall remain in that corps or unit until transferred to another corps or unit by, or under the orders of, the competent military authority, but no person shall be transferred from the Infantry branch to another branch or from one unit to another unit located in the same prescribed military area except at his own request.

(2) Any person so transferred from the Infantry branch to another branch may be required to undergo such further preliminary training, not exceeding eight days, as may be ordered by the competent military authority, and thereafter shall undergo the periodical training specified in Schedule I for the branch to which he is transferred:

Provided

Provided that any periodical training already undergone by such person in the training year in which he is transferred shall be deemed to have been undergone in such other branch.

Explanation.—For the purposes of this section and of Schedule I, a day shall be deemed to consist of four hours of actual military drill or instruction, and may be made up of fractions of a day not more than four in number.

16. (1) Any enrolled person who leaves his place of residence in India for the time being and thereby leaves the area commanded by one competent military authority for that commanded by another shall, if he does not intend to return to the area which he leaves, notify the competent military authority commanding that area of his change of residence. Change of residence.

(2) If such person having intended to return does not return within three months, he shall notify the competent military authority as aforesaid immediately on the expiry of that period.

(3) The competent military authority on being notified of a change of residence under sub-section (1) or sub-section (2) may, subject to the provisions of section 15, transfer such person from the corps or unit in which he is serving to another corps or unit.

17. (1) Any enrolled person who has attained the age of forty-five years or has completed four years' service from the date of his enrolment shall, on application made by him in the prescribed manner, be entitled to receive his discharge from the Auxiliary Force, India. Discharge.

(2) An enrolled person who is not entitled to his discharge under sub-section (1) may be discharged by the competent military authority on a recommendation of the Advisory Committee in this behalf.

18. No person liable to perform military service under this Act shall be required to perform such service except— Calling out and embodiment.

(a) when called out with any portion of the Auxiliary Force, India, by an order of the senior military officer present either

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to act in support of the civil power or to provide guards which, in the opinion of such officer, are essential; or

- (b) when any portion of the Auxiliary Force, India, to which he belongs has been embodied to support or supplement His Majesty's regular forces in the event of an emergency by a notification directing such embodiment issued by the Governor General in Council or any Local Government empowered by the Governor General in Council in that behalf and published in the Gazette of India or the local official Gazette, as the case may be; or
- (c) when attached at his own request to any regular forces.

Territorial limits of liability to military service on calling out and embodiment.

19. No person called out under clause (a), or embodied under clause (b), of section 18 shall be required to perform military service beyond the limits of the prescribed military area in which the corps or unit to which he has been appointed or is for the time being attached is located, save when it is, in the opinion of the senior military officer present necessary to proceed beyond those limits in the course of the military operations upon which the corps or unit or any portion thereof is for the time being engaged.

Duration of military service on calling out or embodiment.

20. Any portion of the Auxiliary Force, India, which, having been called out or embodied under section 18, is performing military service, shall be replaced by regular troops or otherwise as soon as circumstances permit, and shall not be required to perform such service after such replacement has been effected to the satisfaction of the senior military officer present or after the cancellation of the order or notification under clause (a) or (b) as the case may be, of section 18.

Application of the Army Act.

21. Every commissioned officer of the Auxiliary Force, India, when doing duty as a commissioned officer, and every non-commissioned officer and man
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of the said Force—

(a) when attached to or otherwise acting as part of or with any regular forces, and

(b) when called out by an order, or embodied by a notification, under section 18,

44 and 45
Vict. c. 58.

shall be subject to the provisions of the Army Act and any orders or regulations made thereunder, and the said Act, orders and regulations shall apply to every such person in the circumstances aforesaid as if the same were enacted in this Act, and as if such person held the same rank in His Majesty's Army as he holds for the time being in the said Force.

22. If any person liable to perform military service under this Act fails to comply with an order or notification under section 18 calling him out or embodying him for military service, any District Magistrate or Chief Presidency Magistrate may, on the application of the competent military authority or of an officer empowered by such authority in writing in that behalf, cause such person to be arrested and brought before him, and, if the Magistrate is satisfied that such person has been duly required to perform military service, the Magistrate may, without prejudice to any penalty which such person may have incurred, make over such person in custody to the military authorities.

Refusal to appear for military service.

23. An enrolled person who refuses or without lawful excuse (the burden of proving which shall lie upon such person) neglects—

Penalties for breach of sections 8, 14 and 16.

(a) to comply with any order under section 8 ;
or

(b) to attend for medical examination, or to comply with the directions of the medical officer, as required by section 14 ; or

(c) to notify any change of residence as required by section 16 ;

shall be punishable with fine which may extend to fifty rupees.

24. An enrolled person commits an offence if he, in circumstances when he is not subject to military

Other offences.

military law, does any of the following acts, namely :—

(1) when on parade or undergoing military training or wearing His Majesty's uniform—

(a) strikes, or uses or offers violence to or uses threatening or insubordinate language to, or behaves with contempt to, his superior officer ; or

(b) disobeys any standing order of, or lawful command given by, his superior officer ; or

(c) neglects to obey a general or garrison order made specially applicable to the Auxiliary Force, India, by the competent military authority ; or

(d) is in a state of intoxication ; or

(e) being a non-commissioned officer strikes or ill-treats any person subject to military law or to this Act, or to the Indian Territorial Force Act, 1920, who is his subordinate in rank or position ;

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1920.

(2) without sufficient cause fails to appear at the place of parade at the time fixed or to attend at any place in his capacity as a member of the Auxiliary Force, India, when duly required so to attend, or when on parade without sufficient cause quits the ranks ;

(3) without sufficient cause fails to perform any part of the training which by or under this Act he is required to perform ;

(4) strikes, or uses or offers violence to, any person whether subject to military law or not in whose military custody he is placed, and whether such person is or is not his superior officer ;

(5) resists an escort whose duty it is to arrest him or detain him in military custody ;

(6) being under arrest or detention or otherwise in lawful military custody escapes or attempts to escape ;

(7) when

(7) when in charge of any property belonging to Government or to a corps or unit of the Auxiliary Force, India, makes away with, or is concerned in making away with, any such property ;

(8) wilfully injures, or by culpable neglect loses or causes injury to, any such property as is mentioned in clause (7) ;

(9) wilfully ill-treats a horse or other animal used in the public service ;

(10) knowingly furnishes a false return or report of the number or state of men under his command or charge, or of any money, arms or ammunition, clothing, equipment, stores or other property in his charge ;

(11) through design or culpable neglect omits to make or send any return of any matter mentioned in clause (10) which it is his duty to make or send ;

(12) when it is his official duty to make a declaration respecting any matter, makes a declaration respecting such matter which he either knows or believes to be false or does not believe to be true ;

(13) knowingly makes against any person subject to military law or to this Act or to the Indian Territorial Force Act, 1920, an accusation which he either knows or believes to be false or does not believe to be true ;

(14) falsely personates any other person at any parade or on any occasion when such other person is required by or under this Act to do any act or attend at any place, or abets any such act of personation.

25. (1) Any person committing any of the offences specified in sub-clauses (b), (c) and (d) of clause (1) or in clauses (2), (3), (8), (11), and (14) of section 24 shall be punishable with fine which may extend to two hundred rupees. Punishment for offences under section 24.

(2) Any person committing any other offence specified in section 24 shall be punishable with imprisonment which may extend to two months,

or

or with fine which may extend to two hundred rupees, or with both.

Dismissal.

26. The competent military authority may in his discretion dismiss any enrolled person from the Auxiliary Force, India.

Summary and minor punishments.

27. The Governor General in Council may prescribe summary and minor punishments for offences under section 24 or for contravention of any rule or regulation made under this Act to which enrolled persons shall be liable without the intervention of a Criminal Court, and the officer or officers by whom and the circumstances in which and the extent to which such summary and minor punishments may be inflicted, and the manner in which any such punishment may be enforced :

Provided that no punishment involving any kind of imprisonment shall be imposed as a summary or minor punishment :

Provided further that no summary punishment shall be inflicted in any case in which the accused claims to be tried by a Criminal Court.

Advisory Committees.

28. (1) The Local Government shall constitute for each prescribed military area one or more Advisory Committees each consisting of three or more members, of whom one shall be the competent military authority or a military officers appointed by him in this behalf and the others shall be persons eligible for enrolment in the Auxiliary Force, India, within the meaning of section 4, who shall be appointed annually by, or under the orders of, the Local Government.

(2) Any Advisory Committee constituted for a prescribed military area or a part thereof, as the case may be, which includes a Presidency-town or any other place to which the Governor General in Council may, by order in writing, declare this sub-section to apply, shall consist of not less than five members, of whom not more than two shall be persons in the service of Government.

(3) The Governor General in Council shall prescribe the duties, powers and procedure of Advisory Committees

Committees and, in particular, the matters in respect of which the competent military authority shall be bound to give effect to a recommendation of an Advisory Committee unless the Local Government otherwise directs.

29. The Governor General in Council may constitute any corps or unit and may disband any corps or unit constituted under this Act. Constitution and disbandment of units.

30. (1) The Governor General in Council may make rules to carry out the purposes of this Act. Power to make rules.

(2) In particular and without prejudice to the generality of the foregoing powers such rules may—

- (a) provide for the appointment of enrolling officers;
- (b) prescribe military areas for the purposes of this Act;
- (c) prescribe the manner in which and the conditions subjects to which European British subjects and other persons who are not British subjects may offer themselves for enrolment under this Act;
- (d) define the manner in which and the conditions under which persons or any class of persons liable to military service under this Act may be excused from being called out or embodied;
- (e) prescribe the military training to be undergone by persons liable to military training under section 6 but not to military service under section 7;
- (f) prescribe the rates of pay for, and provide for the grant of allowances to, persons liable to perform military service under this Act;
- (g) prescribe for any military area which is a railway area or for any area beyond the limits of British India the authorities which shall be deemed respectively to be the Local Government and the District

District Magistrate for all or any of the purposes of this Act; and

(h) provide for any other matter which under this Act is to be or may be prescribed.

(3) Any rule made under this section may provide that a contravention thereof shall be punishable with fine which may extend to fifty rupees.

(4) The power to make rules conferred by this section shall, except on the first occasion of the exercise thereof, be subject to the condition of previous publication.

(5) All rules made under this section shall be published in the Gazette of India, and on such publication shall have effect as if enacted in this Act.

Power to make regulations.

31. The Commander-in-Chief of His Majesty's forces in India may make regulations consistent with this Act and the rules made thereunder providing generally for details connected with the organisation and personnel of the Auxiliary Force, India, and for the duties, equipment, military training, allowances and leave of enrolled persons.

Certain persons subject to this Act to be deemed part of His Majesty's Army for certain purposes.

32. For the purposes of sections 128, 130 and 131 of the Code of Criminal Procedure, 1898, all officers, non-commissioned officers and men liable to perform military service under this Act who have been appointed to a corps or unit shall be deemed to be officers, non-commissioned officers and soldiers, respectively, of His Majesty's Army. V of 1898.

Trial of offences.

33. Save as otherwise provided by section 27, no offence under this Act shall be tried save by a Court not inferior to that of a Presidency Magistrate or a Magistrate of the first class.

Exemption from local taxation.

34. No enrolled person shall be liable to pay any municipal or other tax in respect of a horse, bicycle, motor-bicycle, motor car or other means of conveyance which he is authorised by a general or special order of the competent military authority to maintain in his capacity as a member of the Auxiliary Force, India.

35. In

XI of 1878.

35. In section 1 of the Indian Arms Act, 1878, ^{Amendment of section 1, Act XI of 1878.} for the words and figures "a volunteer enrolled under the Indian Volunteers Act, 1869," the words and figures "a member of either of the forces constituted by the Indian Territorial Force Act, 1920, or the Auxiliary Force Act, 1920," and for the word "volunteer" the word "member," shall be substituted.

36. On and from the date on which this Act ^{Repeals.} comes into force, the enactments mentioned in Schedule II shall be repealed to the extent specified in the fourth column thereof.

SCHEDULE I.

(See sections 9, 11, 12 and 15.)

TRAINING.

1. Preliminary.	
(a) for infantry	32 days, and the annual musketry course as laid down in regulations.
(b) for other branches	40 days, and the annual musketry or gun course as laid down in regulations.
2. Periodical.	
(1) Active Class.	
(a) for infantry	16 days in each training year, and the annual musketry course as laid down in regulations.
(b) for other branches	20 days in each training year, and the annual musketry or gun course as laid down in regulations.
(2) First (A) Class Reserve.	
(a) for infantry	6 days in each training year, and the annual musketry course as laid down in regulations.
(b) for other branches	10 days in each training year, and the annual musketry or gun course as laid down in regulations.
(3) Second (B) Class Reserve.	
(a) for infantry	{ The annual musketry course as laid down for this Class in regulations.
(b) for other branches	

NOTE (cf. section 15).—A day consists of four hours of actual military drill or instruction, and may be made up of fractions of a day not more than four in number.

SCHEDULE II

SCHEDULE II.

ENACTMENTS REPEALED.

(See section 36.)

Year.	No.	Short title.	Extent of repeal.
1869	XX	The Indian Volunteers Act, 1869.	The whole.
1891	XII	The Amending Act, 1891 . . .	So much of the Second Schedule as relates to the Indian Volunteers Act, 1869.
1896	X	The Indian Volunteers Act Amendment Act, 1896.	The whole.
1909	V	The Amending (Army) Act, 1909	So much of the Schedule as relates to the Indian Volunteers Act, 1869.
"	VI	The Indian Volunteers (Amendment) Act, 1909.	The whole.
1915	I	The Emergency Legislation Continuance Act, 1915.	So much of the Schedule as relates to the Indian Volunteers Ordinance, 1914.
1917	III	The Indian Defence Force Act, 1917.	The whole.
1918	VIII	The Indian Defence Force (Amendment) Act, 1918.	The whole.
"	XXI	The Indian Defence Force (Foreign Service) Amendment Act, 1918.	The whole.
1919	VII	The Indian Defence Force (Amendment) Act, 1919.	The whole.